



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

Six-0-Five Mobile Home Group, LLC

FOR

**SIX-O-FIVE VILLAGE MOBILE HOME PARK SEWAGE TREATMENT
PLANT**

VPDES Permit No. VA0090140

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Six-0-Five, LLC regarding the Six O Five Village Mobile Home Park Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and/or regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Six-O-Five Village Mobile Home Park Sewage Treatment Plant located off Route 605, 0.3 miles northeast of State Highway 33 in Louisa, Virginia, which treats and discharges treated sewage and other municipal wastes for the residents of Six-O-Five Mobile Home Park.
10. "Six-0-Five" means "Six-0-Five Mobile Home Group, LLC" a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Six-0-Five, Mobile Home Group, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "O&M" means operations and maintenance.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VA0090140 which was re-issued under the State Water Control Law and the Regulation to SIX-0-FIVE, LLC, on May 25, 2014 and which expires on May 24, 2019.

15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
17. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Six-0-Five owns and operates the Plant. The Permit allows Six-0-Five to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of the South Anna River in strict compliance with the terms and conditions of the Permit.

2. The unnamed tributary to the South Anna River is located in the York River Basin. DEQ does not have monitoring data for the receiving stream. The closest downstream segment with water quality data is the South Anna River, approximately 9.6 miles downstream of the outfall. This specific portion of the South Anna River is not listed with an impairment in the 2012 Integrated Report, however, it should be noted that the recreation use for this segment was not assessed.
3. In submitting its DMRs, as required by the Permit, Six-0-Five, LLC has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the monthly concentration average limit for CBOD5 for the month of October 2013. In addition the letter of explanation required by Part II, Section 1 parts 2 and 3 provided to DEQ for the probable cause of the CBOD5 violation and corrective actions was not adequate. In addition pursuant to Part II, Section M of the Permit, Six-0-Five was required re-apply for permit coverage and submit a permit application to DEQ by November 24, 2013. The permit application was received by DEQ on January 21, 2014.
4. On February 4, 2014, DEQ staff performed an inspection of the Facility. While onsite, staff observed an unauthorized discharge due to operator error. Approximately 1,000 gallons of partially treated activated sludge without ultra violet disinfection was discharged through the outfall to an unnamed tributary of the South Anna River. DEQ staff also observed that the grates on the Sequencing Batch Reactor unit were rusting, the pH thermister had not been certified on a yearly basis, and the operator's logbooks were incomplete.
5. NRO issued Warning Letters and a Notice of Violation for the aforementioned violations as follows: WL No. W2014-01-N-1004, issued on January 22, 2014, citing the late permit application, WL No. W2014-02-N-1011 issued February 21, 2014 for the late permit application; and NOV No. W2014-04-N-0005 issued on April 23, 2014, for the October 2013 CBOD5 violation, inadequate letter of explanation, and the February 4, 2014 unauthorized discharge event.
6. Six-0-Five's operating logs indicate that it discharged treated wastewater from the Plant every day from October 1, 2013 through February 4, 2014.
7. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
8. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
9. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

10. The Department has issued no permits or certificates to Six-0-Five other than VPDES Permit No. VA0090140.
11. VPDES Permit No. VA0090140 Part I.A.1 contains permit effluent limits.
12. VPDES Permit No. VA0090140 Part II.M states that "if the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at last 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board."
13. VPDES Permit No. VA0090140 Part II.F states that "except in compliance with this permit or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to an animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation or for other uses."
14. VPDES Permit No. VA0090140 Part II.I(2) and (3) states that "The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health. 2. A written report shall be submitted within 5 days and shall contain: a. A description of the noncompliance and its cause; b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II.I, if the oral report has been received within 24 hours and no adverse impact on state waters has been reported. 3. The permittee shall report all instances of noncompliance not reported under Parts II.I.1 or I.2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II.I.2
15. The unnamed tributary to South Anna River is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
16. Based on the results of the February 4, 2014 inspection, the October 2013 DMR, and the June 5, 2014 meeting, Six-0-Five has violated VPDES Permit No. VA0090140 Part I.A.1, Part II.M, Part II.F, and Part II.I(2) and (3), and Code § 62.1-44.5, and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(3)-C(13) above.
17. On June 5, 2014, Department staff met with representatives of Six-0-Five to discuss the violations.

18. Six-0-Five has submitted documentation that verifies that the violations as described above have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Six-0-Five, and Six-0-Five agrees to pay a civil charge of \$5,250.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Six-0-Five shall include its Federal Employer Identification Number (FEIN) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Six-0-Five shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Six-0-Five for good cause shown by Six-0-Five, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Six-0-Five admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Six-0-Five consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Six-0-Five declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other

administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Six-0-Five to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Six-0-Five shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Six-0-Five shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Six-0-Five shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Six-0-Five. Nevertheless, Six-0-Five agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Six-0-Five has completed all of the requirements of the Order;
- b. Six-0-Five petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Six-0-Five.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Six-0-Five from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Six-0-Five and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Six-0-Five certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Six-0-Five to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Six-0-Five.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Six-0-Five voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 20th day of January, 2015.



Thomas A. Faha Regional Director
Department of Environmental Quality

Six-0-Five voluntarily agrees to the issuance of this Order.

Date: 11-17-14 By: [Signature], Manager Member
(Person) (Title)
Six-0-Five Mobile Home Group, LLC

Commonwealth of Virginia
City/County of Henrico

The foregoing document was signed and acknowledged before me this 17th day of November, 2014, by James H. Benson Jr. who is managing member of Six-0-Five Mobile Home Group, LLC on behalf of the company.

[Signature]
Notary Public

7576002
Registration No.

My commission expires: 1/31/17

Notary seal:

